

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of ALEXANDER CHERNICK
WILLBANKS, Minor.

DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

PAMELA A. WILLBANKS FINCHER,

Respondent-Appellant.

UNPUBLISHED

June 12, 2007

No. 274734

Wayne Circuit Court

Family Division

LC No. 04-436795-NA

Before: Fitzgerald, P.J., and Sawyer and O'Connell, JJ.

MEMORANDUM.

Respondent appeals as of right the order terminating her parental rights to her minor child under MCL 712A.19b(3)(b)(i), (g), (i), and (j). We affirm.

A petitioner must establish at least one statutory ground for termination of parental rights by clear and convincing evidence. *In re JK*, 468 Mich 202, 210; 661 NW2d 216 (2003). We review the lower court's termination decision for clear error. MCR 3.977(J).

Respondent argues that petitioner failed to make reasonable efforts to rectify the conditions leading to adjudication and failed to justify its decision not to provide services. Petitioner is not required to provide services in all circumstances but must justify this decision. *In re Terry*, 240 Mich App 14, 26 n 4; 610 NW2d 563 (2000); MCL 712A.18f(1)(b). In the present case, the lower court found that further efforts were unnecessary because petitioner provided numerous services before the court terminated respondent's parental rights to three older children a few months before this child was born. Respondent did not take advantage of those services and continued using drugs during pregnancy, as evidenced by the newborn's urine screen, which was positive for cocaine and opiates. Petitioner was not required to provide the services again under these circumstances.

Respondent also briefly addresses the statutory grounds, specifically arguing that there was no evidence she harmed the baby or her older children. Prenatal drug use constitutes neglect. *In re Nash*, 165 Mich App 450, 456; 419 NW2d 1 (1987); *In re Baby X*, 97 Mich App 111, 116; 293 NW2d 736 (1980). The baby's positive urine screen was sufficient to establish that respondent's actions physically harmed the baby under MCL 712A.19b(3)(b)(i). It was not

necessary to prove the cause of every medical problem the baby suffered. The baby was also reasonably likely to suffer further injury if returned to respondent, based on her conduct during pregnancy, her treatment of her older children, and the baby's special medical needs. The way a parent treated one child is probative of how she will treat another child. *In re AH*, 245 Mich App 77, 84; 627 NW2d 33 (2001). Therefore, the lower court properly found clear and convincing evidence of a statutory ground under MCL 712A.19b(3)(b)(i). This same evidence supported the lower court's finding under MCL 712A.19b(3)(g), (i), and (j).

Furthermore, the lower court did not clearly err in its best interests determination. MCL 712A.19b(5); *In re Trejo*, 462 Mich 341, 352-353; 612 NW2d 407 (2000). Contrary to respondent's assertion, petitioner was not required to provide respondent with further opportunities to demonstrate that termination was against the child's best interests. Respondent had not corrected the problems leading to termination of her rights to the older children, and her newborn would be at serious risk if placed in her care.

Affirmed.

/s/ E. Thomas Fitzgerald
/s/ David H. Sawyer
/s/ Peter D. O'Connell